



MONTANA STATE HOSPITAL POLICY AND PROCEDURE

MONTANA ADVOCACY PROGRAM ACCESS TO PATIENT RECORDS

Effective Date: September 1, 2002

Policy #: HI-10

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I. PURPOSE: To establish procedures for providing access to patient records by employees and agents of the Montana Advocacy Program (MAP) as required under state and federal law.

II. POLICY:

- A. Montana State Hospital will meet requirements of state and federal statutes requiring advocacy programs administered under 42 U.S.C. Section 10805 (MAP) to have access to all records of:
1. Any individual who is a client of the Montana Advocacy Program, provided the individual, legal guardian, conservator, or other legal representative of such individual has authorized the advocacy program to have access.
 2. Any individual (including an individual who has died or whose whereabouts are unknown)
 - a) who, by reason of the mental or physical condition of such individual is unable to authorize the advocacy program to have such access.
 - b) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is in the State; and
 - c) with respect to whom a complaint has been received by the program or with respect to whom there is probable cause to believe that such individual has been subject to abuse or neglect.

The Montana Advocacy Program will be asked to identify any employees or agents who may need access to patient records to the Hospital administration.

These limitations on access to records do not apply to representatives or agents of the Mental Disability Board of Visitors who are allowed access to all records to carry out their responsibilities under 53-21-104 M.C.A. (53-21-166 M.C.A.). See policy #HI-09.

III. DEFINITIONS:

- A. Montana Advocacy Program: An eligible mental health protection and advocacy system under provisions of 42 U.S.C. 10801 through 10851.

IV. RESPONSIBILITIES:

- A. Montana Advocacy Representative: Provide MSH Health Information Department with a signed authorization or written exception to signed authorization in order to have access to patient records.
- B. Health Information: Notify patient unit of MAP access to patient record.

V. PROCEDURE:

- A. Authorization for employees or agents of the Montana Advocacy Program to have access to patient records will be granted by the Director of Health Information Department or other designated employee.
- B. Access to records will be granted after evidence is obtained indicating that authorization has been obtained from the patient, legal guardian, conservator, or other legal representative.
- C. Authorization to access records in circumstances described above in Part B of the Policy Section will be granted upon receipt of a written request from employees or agents of the Montana Advocacy Program indicating that the required conditions have been met. This request must include either: 1) a copy of the complaint or other documentation indicating probable cause that abuse or neglect occurred; or 2) a written statement from the MAP representative indicating that a complaint of abuse or neglect has been received and a copy of the complaint or the documentation of the probable cause to support an allegation of abuse or neglect.
- D. The Director of the Health Information Department or other designated employee will notify personnel on the Hospital's treatment programs that authorization to access patient records has been granted. A sticker may be placed on the chart to communicate this information.
- E. Authorization for access to patient records shall be valid for a one-year period unless otherwise specified or revoked.
- F. The record is to be reviewed in the general vicinity where the chart is located. It may not be taken out of the treatment program or Health Information Department except when permission to photocopy the record has been granted by the Director of the

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Health Information Department. When permission has been granted, the chart may be taken to the Board of Visitors office for an agreed-upon period of time. Under no circumstances are charts to be taken from the office overnight.

G. Questions or problems regarding access to patient records are to be referred to the Hospital's administrative staff.

VI. REFERENCES: M.C.A. - 53-21-142, M.C.A. - 53-21-166, M.C.A. - 53-21-169

VII. COLLABORATED WITH: Director of Nursing Services and the Hospital Administrator.

VIII. RESCISSIONS: #HI-10, *Montana Advocacy Program Access to Patient Records* dated February 14, 2000; HOPP #HI-03-96-N, *Montana Advocacy Program – Access to Patient Records* dated 1966

IX. DISTRIBUTION: All hospital policy manuals.

X. REVIEW AND REISSUE DATE: September 2005

XI. FOLLOW-UP RESPONSIBILITY: Director of Information Resources

XII. ATTACHMENTS: None

_____/____/____
Ed Amberg
Hospital Administrator

Date

_____/____/____
Billie Holmlund, RHIA
Director of Information Resources

Date